

House File 2394 - Introduced

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BY THOMPSON

A BILL FOR

- 1 An Act relating to the regulation of specified food
- 2 establishments and home food establishments.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 137D.1, Code 2022, is amended to read as
2 follows:

3 137D.1 Definitions.

4 As used in this chapter, unless the context otherwise
5 requires:

6 1. ~~"Food" means any raw, cooked, or processed edible~~
7 ~~substance, ice, beverage, or ingredient used or intended for~~
8 ~~use or sale in whole or in part for human consumption.~~

9 2. ~~"Department" means the department of inspections and~~
10 ~~appeals.~~

11 1. "Department" means the department of inspections and
12 appeals.

13 2. "Food" means any raw, cooked, or processed edible
14 substance, ice, beverage, or ingredient used or intended for
15 use or sale in whole or in part for human consumption.

16 3. "Home bakery food establishment" means a business on
17 the premises of a residence in which prepared time/temperature
18 control for safety food is created items are produced for
19 sale or resale, for consumption off the premises, if the
20 business has gross annual sales of prepared food of less
21 than thirty-five fifty thousand dollars for time/temperature
22 control for safety food items. However, "home bakery food
23 establishment" does not include a residence in which food is
24 prepared to be used or sold by churches, fraternal societies,
25 charitable organizations, or civic organizations.

26 4. ~~"Prepared food" means soft pies, bakery products~~
27 ~~with a custard or cream filling, or baked goods that are a~~
28 ~~time/temperature control for safety food. "Prepared food" does~~
29 ~~not include baked goods that are not a time/temperature control~~
30 ~~for safety food, including but not limited to breads, fruit~~
31 ~~pies, cakes, or other pastries that are not a time/temperature~~
32 ~~control for safety food. "Homemade food item" means a food~~
33 item, including a nonalcoholic beverage, which is produced and,
34 if packaged, packaged at a home food establishment.

35 5. "Produce" means to prepare a food item by cooking,

1 baking, drying, mixing, cutting, fermenting, preserving,
2 dehydrating, growing, raising, or other process.

3 5. 6. *"Time/temperature control for safety food"* means a
4 food that requires time and temperature controls for safety to
5 limit pathogenic microorganism growth or toxin formation.

6 Sec. 2. Section 137D.2, Code 2022, is amended to read as
7 follows:

8 **137D.2 Licenses and inspections.**

9 1. A person shall not open or operate a home ~~bakery~~
10 food establishment until a license has been obtained from
11 the department of inspections and appeals. The department
12 shall collect a fee of fifty dollars for a license. After
13 collection, the fees shall be deposited in the general fund of
14 the state. A license shall expire one year from date of issue.
15 A license is renewable.

16 2. A person shall not sell or distribute from a home ~~bakery~~
17 food establishment if the home ~~bakery~~ food establishment is
18 unlicensed, the license of the home ~~bakery~~ food establishment
19 is suspended, or the food fails to meet standards adopted for
20 such food by the department.

21 3. An application for a license under [this chapter](#) shall be
22 made upon a form furnished by the department and shall contain
23 the items required by it according to rules adopted by the
24 department.

25 4. The department shall regulate, license, and inspect home
26 ~~bakeries~~ food establishments according to standards adopted by
27 rule.

28 5. The department shall provide for the periodic inspection
29 of a home ~~bakery~~ food establishment. The inspector may enter
30 the home ~~bakery~~ food establishment at any reasonable hour to
31 make the inspection. The department shall inspect only those
32 areas related to preparing food for sale.

33 6. The department shall regulate and inspect food prepared
34 at a home ~~bakery~~ food establishment according to standards
35 adopted by rule that are consistent with this chapter. The

1 inspection may occur at any place where the prepared food is
2 created, transported, or stored for sale or resale.

3 7. A home food establishment shall affix or label a homemade
4 food item with the following information:

5 a. Information to identify the name and address of the home
6 food establishment.

7 b. The common name of the food.

8 c. The ingredients of the homemade food item in descending
9 order of predominance.

10 d. The following statement: "This product was produced at a
11 home food establishment. This product may contain allergens."

12 Sec. 3. Section 137D.3, Code 2022, is amended to read as
13 follows:

14 **137D.3 Penalty.**

15 A person who violates a provision of **this chapter**, including
16 a standard adopted by departmental rule, relating to home
17 ~~bakeries~~ food establishments or ~~prepared foods created homemade~~
18 food items produced in a home ~~bakery~~, ~~is guilty of a simple~~
19 ~~misdemeanor~~ food establishment shall be subject to a civil
20 penalty in the amount of one hundred dollars per violation.
21 Each day that the violation continues constitutes a separate
22 offense violation.

23 Sec. 4. Section 137D.4, Code 2022, is amended to read as
24 follows:

25 **137D.4 Injunction.**

26 A person operating a home ~~bakery~~ food establishment
27 or selling prepared foods created at a home ~~bakery~~ food
28 establishment in violation of a provision of **this chapter**
29 may be restrained by injunction from further operating
30 that home ~~bakery~~ food establishment. If an imminent health
31 hazard exists, the home ~~bakery~~ food establishment must cease
32 operation. Operation shall not be resumed until authorized by
33 the department.

34 Sec. 5. Section 137D.8, Code 2022, is amended to read as
35 follows:

1 **137D.8 Suspension or revocation of licenses.**

2 The department may suspend or revoke a license issued to a
3 person under this chapter if any of the following occurs:

4 1. The person's home ~~bakery~~ food establishment does not
5 conform to a provision of this chapter or a rule adopted
6 pursuant to this chapter.

7 2. The person violates a provision of this chapter or a rule
8 adopted pursuant to this chapter.

9 3. The person conducts an activity constituting a criminal
10 offense in the home ~~bakery~~ food establishment and is convicted
11 of a serious misdemeanor or a more serious offense as a result.

12 Sec. 6. Section 137F.1, Code 2022, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 2A. "*Cottage food*" means the production
15 and sale of food produced at a private residence other than
16 time/temperature control for safety food as provided in section
17 137F.20.

18 Sec. 7. Section 137F.1, subsection 8, paragraphs d, e, and
19 f, Code 2022, are amended to read as follows:

20 ~~d. Premises which are a home bakery pursuant to food~~
21 establishment as defined in chapter 137D.

22 ~~e. Premises where a person operates a farmers market, if~~
23 ~~time/temperature control for safety foods are not sold or~~
24 ~~distributed from the premises.~~

25 ~~f. Premises of a residence in which cottage food that is not~~
26 ~~a time/temperature control for safety food is prepared and sold~~
27 for consumption off the premises to a consumer customer, if the
28 food is labeled to identify the name and address of the person
29 preparing the food, and the common name of the food.

30 Sec. 8. Section 137F.1, subsection 8, paragraph g, Code
31 2022, is amended by striking the paragraph.

32 Sec. 9. NEW SECTION. 137F.20 **Cottage food — requirements.**

33 Cottage food is exempt from all licensing, permitting,
34 inspection, packaging, and labeling laws of the state if the
35 food is sold and delivered by the producer directly to the

1 consumer, or delivered by mail or an agent of the producer. A
2 producer may sell food to the consumer in person, remotely, by
3 telephone, by internet, by an agent of the producer, or by a
4 third-party vendor to the consumer.

5 1. The food shall be affixed or labeled with the following
6 information:

7 a. Information to identify the name and address of the home
8 food establishment.

9 b. The common name of the food.

10 c. The ingredients of the homemade food item in descending
11 order of predominance.

12 d. The following statement: "This product was produced at a
13 home food establishment. This product may contain allergens."

14 2. In addition to the transactions permitted under this
15 section, cottage food producers may sell food made in a
16 private residence to the maximum extent permitted by federal
17 law. Nothing in this section shall be construed to be more
18 restrictive than applicable federal requirements.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to the sale and production of food produced
23 by private residences.

24 The bill modifies the definition of "home bakery" to "home
25 food establishment" and makes conforming amendments. The bill
26 defines "homemade food item" to mean a food that is produced
27 and, if packaged, packaged at a home food establishment. The
28 bill defines "produce" to mean food prepared by cooking,
29 baking, drying, mixing, cutting, fermenting, preserving,
30 dehydrating, growing, raising, or other food methods.

31 The bill provides that a violation of the bill's provisions
32 may result in a \$100 fine. The bill provides that a home food
33 establishment shall label homemade food items with information
34 including the name of the food producer, the name of the food,
35 the ingredients, and a disclaimer. Current law provides that a

1 home bakery is guilty of a simple misdemeanor for violations of
2 Code chapter 137D.

3 The bill defines "cottage food" to mean the production and
4 sale of food produced at a private residence that is not a
5 time/temperature control for safety food. The bill provides
6 that cottage food is exempt from all licensing, permitting,
7 inspection, packaging, and labeling upon certain conditions
8 being met. The conditions include the manner of sale between a
9 food producer and consumer, a requirement of labeling regarding
10 the name and address of the producer, the name of the food, the
11 ingredients, and a disclaimer.

12 Current law does not include a kitchen in a private home
13 where food is prepared or stored for family consumption or a
14 kitchen in a bed and breakfast home in the definition of "food
15 establishment" for purposes of Code chapter 137F. The bill
16 strikes this exclusion.